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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,809	09/11/2003	Anthony J. Baerlocher	0112300-1629	7061
29159	7590	04/24/2009	EXAMINER	
K&L Gates LLP			PANDYA, SUNIT	
P.O. Box 1135				
CHICAGO, IL 60690				
			ART UNIT	PAPER NUMBER
			3714	
			NOTIFICATION DATE	DELIVERY MODE
			04/24/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/660,809	<b>Applicant(s)</b> BAERLOCHER, ANTHONY J.	
	<b>Examiner</b> SUNIT PANDYA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14-21,27 and 29-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14-21,27 and 29-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/23/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/09 has been entered.

### ***Response to Amendment***

This action is in response to amendments filed January 23, 2009, wherein the examiner acknowledges that the applicant has amended claims 1, 3, 4, 10, 12, 15, 07, 27, 30, 31, 39, 40 & 42. No new claims have been added or omitted. Consequently claims 1, 3-12, 14-21, 27, 29-46 are currently pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 9-12, 14-20, 27, 29-31, 34-36, 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich (US Patent 6,309,300), and further in view of Anderson et al. (US Patent 6,428,412).

Claims 1 & 27: Glavich teaches of a gaming device comprising a display device, an input device (figure 1), a processor configured to operate with the display device and the input device to display base game operable upon a wager (col. 2: 58-67), display an outcome of the base game (col. 3: 33-43), and determine if a triggering event occurred in the outcome of the base game (col. 3: 46-57), and if the trigger even occurred, display plurality of selections associated with a bonus game, and for each picked selection determine the outcome associated with the selection, wherein Glavich teaches of multiple type of selection outcomes, and one of the type of selection outcome is an award value (figure 3B, element 314e) and a second type of award is a non-value award (col. 4: 44-53, wherein Glavich teaches that a non-value award can be free spin to play more, or additional picks or multiplier to increase the award value), Glavich also teaches that the selection outcome is based on the amount of wager placed in the base game (figure 1, element 116 & cols. 3-4: 58-28, wherein the selection outcome or the total number of selections picked by the players is in direct correlation with the wager amount). Glavich also teaches of displaying atleast one award, based on the outcome associated with the picked selections (cols. 4-5: 44-3).

Glavich however fails to teach that player selectable designated selections are based atleast in part of amount of credits wagered on each of the paylines. Glavich teaches of many different embodiments which designates the number of player

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selectable selections (ex: certain outcome in the base game, playing certain numbers of game rounds, accumulation of game points or credits or just randomly). Anderson et al. teaches of allowing player to wager on each of plurality of paylines (col. 4: 13-20, wherein Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines). It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Glavich to allow player to bet on individual paylines and utilizing that betting method, to further designate the number of player selectable selection, to maintain or even further enhance the level of player excitement offered by the bonus game (col. 1: 40-47)

Claims 3 & 29: Glavich discloses of a game machine having an outcome based on the amount of wager in the base game (cols. 3-4: 58-28).

Claims 4 & 30: Glavich teaches of a game machine wherein the selection outcome includes an activation of a secondary display device (figure 1, #116 & col. 3: 47-53).

Claims 5 & 31: Glavich teaches of a game machine wherein the secondary display includes a symbol generator (col. 4: 48-3 & 5: 59-5).

Claims 9, 16 & 34: Glavich teaches of a gaming machine, which includes a plurality of reels (figure 1, #114).

Claims 10-11, 17, 35-36 & 42: Glavich teaches of a game machine wherein the activation of the secondary display device is made if a designated wager is made in the base game (col. 3: 45-54)

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Claims 12 & 39: Glavich teaches of a gaming device comprising a display device, an input device (figure 1), a processor configured to operate with the display device and the input device to display base game operable upon a wager (col. 2: 58-67), display an outcome of the base game (col. 3: 33-43), and determine if a triggering event occurred in the outcome of the base game (col. 3: 46-57), and if the trigger even occurred, display plurality of selections associated with a bonus game, and for each picked selection determine the outcome associated with the selection, and one of the type of selection outcome is an award value (figure 3B, element 314e) and a second type of award is a non-value award (col. 4: 44-53, wherein Glavich teaches that a non-value award can be free spin to play more, or additional picks or multiplier to increase the award value), Glavich also teaches that the selection outcome is based on the amount of wager placed in the base game (figure 1, element 116 & cols. 3-4: 58-28, wherein the selection outcome or the total number of selections picked by the players is in direct correlation with the wager amount). Glavich also teaches of displaying at least one award, based on the outcome associated with the picked selections (cols. 4-5: 44-3), and providing a jackpot award, if the symbol generated by the bonus game results in a jackpot (col. 7: 14-22).

Glavich however fails to teach that player selectable designated selections are based at least in part of amount of credits wagered on each of the paylines. Glavich teaches of many different embodiments which designates the number of player selectable selections (ex: certain outcome in the base game, playing certain numbers of game rounds, accumulation of game points or credits or just randomly). Anderson et al.

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teaches of allowing player to wager on each of plurality of paylines (col. 4: 13-20, wherein Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines). It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Glavich to allow player to bet on individual paylines and utilizing that betting method, to further designate the number of player selectable selection, to maintain or even further enhance the level of player excitement offered by the bonus game (col. 1: 40-47)

Claim 40: Glavich and Anderson et al. teaches of a game where the designated number of picks of the selection is based on the number of credit wagered per pay line in the base game (col. 4: 13-20, Anderson).

Claims 14 & 41: Glavich teaches of a game machine, which includes a plurality of awards, wherein the awards are associated with one of plurality of selection outcome (figures 3A-3D).

Claim 15: Glavich teaches of a game machine wherein the player receives only a regular bonus if wagers are less than predetermined (cols. 3-4: 58-43).

Claim 18: Glavich teaches of a game machine wherein a generation of a specific symbol combination would result in a jackpot award (col. 4: 44-3 & col. 7: 14-22).

Claims 19-20 & 43: Glavich teaches of a game machine wherein a modifier is associated with the winnings, wherein the modifier is a multiplier (col. 4: 44-57).

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Claims 6-8, 21, 32-33 & 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich and Anderson et al., as applied to claims 1, 3-5, 9-20 & 27-46 above, and further in view of Cohen et al. (US Patent 5,231,568).

Claims 6, 7, 21, 32-33 & 44: Combination of Glavich and Anderson et al. substantially teaches all of the limitation as claimed however fails to teach of a symbol generated by a symbol generator is a product award symbol. Cohen teaches of a gaming machine wherein as a prize, the machine permits the patrons to obtain as a prize the product of service whose representations match the game symbols generated (abstract). It would have been obvious to one with ordinary skill in the art at the time of the invention to have modified the gaming system taught by Glavich and Anderson et al. to award product as a prize to promote certain products or to offer more attractive prizes to the players (col. 1: 10-17).

Claim 8: Cohen teaches that if less than the predetermined numbers of product award symbols are generated, a different award is provided to the player (col. 2: 42-55).

Claims 37-38 & 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glavich and Anderson et al. as applied to claims above, and further in view of Kamille (US Patent 5,855,514).

Claims 37-38 & 45-46: Glavich and Anderson et al. substantially teach of all of the limitations as claimed, however fail to teach of providing the game through a data network such as Internet. Kamille teaches of a gaming machine, which could be a slot



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or game machine of a computer network video game (e.g. Internet, world wide web etc., col. 5: 35-40). It would be obvious to one with ordinary skill in the art at the time of the invention to have modified gaming system taught by Glavich and Anderson et al., to include a network game, thus giving the player ability to play from different locations.

### ***Response to Arguments***

Applicant's arguments filed 1/23/09 have been fully considered but they are not persuasive.

Regarding the applicant's arguments related to the newly submitted claim amendments. The examiner would like to bring the applicant's attention to the rejection above, which has been appropriately updated to reflect the said claim amendments.

With regards to the applicant's arguments that Anderson does not disclose of selection being based on an amount of credit wagered on each of plurality of paylines. The examiner respectfully agrees with the applicant, however, as noted in the rejection above, Glavich in columns 3, line 65, teaches of selectable items "N" having a direct relations with the amount wagered by the user or player. Further more in column 4, lines 22-28, Glavich teach of different wagering methods that could be used to select N. Anderson et al. teaches of allowing player to wager on each of plurality of paylines in column 4, lines 13-20, Anderson et al. allows for increase in the bonus occurrence when maximum amount is wagered on maximum paylines. Thus the combination of Glavich and Anderson et al., substantially teach the invention as claimed.

Consequently, the applicant submitted arguments have been noted but are deemed non-persuasive, and the rejection is maintained.

The examiner would also like to point out that, in the rejection above the examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-Th 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Supervisory Patent Examiner, Art Unit 3714

SP